

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16020
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On October 19, 2001, the Revenue Operations Division of the Idaho State Tax Commission denied a request by [Redacted] (taxpayer) for refund of individual income tax in the amount of \$185 for the period ending December 31, 1997. The taxpayer filed a timely protest and petition for redetermination of the refund denial. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

On August 10, 2001, the taxpayer submitted his 1997 Idaho individual income tax return to the Tax Commission for processing. Because the time for claiming the refund shown in the return had expired, a letter was mailed to the taxpayer advising him of the Tax Commission's intent to deny the refund. Through his representative, the taxpayer objected, and a Notice of Deficiency Determination was issued wherein the taxpayer was advised the refund was denied, and he had a right to appeal the determination.

Idaho Code § 63-3032 defines the due date of Idaho income tax returns:

63-3032. Time for filing income tax returns. (1) Except as provided in section 63-3033, Idaho Code:

(a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the 15th day of the fourth month following the close of the fiscal year.

The taxpayer was required to file an Idaho individual income tax return for the year in question. The return was made on the basis of the calendar year; therefore, it was required to be filed on or before April 15 following the close of the calendar year.

In his letter of protest, the taxpayer's preparer claimed the taxpayer's three-year deadline was extended from April 15, 1998 to October 15, 1998, by virtue of an automatic extension of the time to file.

The taxpayer's representative relied on Idaho Code § 63-3033, which states:

63-3033. Extension of time. (a) The state tax commission may grant a reasonable extension of time for filing any return, declaration, statement or other document, or payment required by this chapter; provided, however, that: (1) **no such extension shall be for a period in excess of six (6) months**; (2) a payment must accompany the initial request for extension of time to file an income tax return which must be at least eighty per cent (80%) of the total tax reported on the income tax return when it is filed, or must be the same as the total tax reported on the income tax return for the prior year if a return was filed for the prior year. (Emphasis added.)

However, while Idaho Code § 63-3033 does allow a six-month extension of the time to file an Idaho income tax return, it does not allow an extension beyond six months and does not extend the time to claim a credit or refund pursuant to Idaho Code § 63-3072(c), which states:

63-3072. Credits and Refunds. . . . (c) Except as provided in subsection (e) of section 63-3035, Idaho Code, a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, **without regard to extensions**, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions. (Emphasis added.)

Idaho Code § 63-3035(e) limits the time for an employee to claim a credit or refund of monies that have been deducted from wages as follows:

63-3035. State withholding tax on percentage basis –

withholding, collection and payment of tax. (e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year which begins within such calendar year and the return made by the employer under this subsection (e) shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this act, the state tax commission shall, after examining the annual return filed by the employee in accordance with this act, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted. **No credit or refund shall be made to an employee who fails to file his return, as required under this act, within three (3) years from the due date of the return, without regard to extensions, in respect of which the tax withheld might have been credited.** In the event that the excess tax deducted is less than one dollar (\$1.00), no refund shall be made unless specifically requested by the taxpayer at the time such return is filed. (Emphasis added.)

The taxpayer's representative wrote the following in a letter to the Tax Commission:

In September, 2001, I read the Idaho statutes numbered 63-3035 and 63-3072. I understand the parts pertaining to [Redacted] [sic] case (Docket #16020). I also read statute numbers 3032 and 3033 and they show me what **I** wanted to see, that it's still possible for [Redacted] to get his refund.

It is well established that "[a] specific statute . . . controls over a more general statute when there is any conflict between the two or when the general statute is vague or ambiguous." Ausman v State, 124 Idaho 839, 842, 864 P.2d 1126, 1129 (1993).

The Tax Commission finds Idaho Code § 63-3072(c) and § 63-3035(e), cited above, are controlling. The clear statutory language prohibits credit or refund of taxes if the claim is not made within a certain timeframe. The taxpayer's 1997 Idaho individual income tax return was not received until August 10, 2001. The time allowed for claiming a credit or refund of taxes shown in that return expired on April 15, 2001.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted], dated

October 19, 2001, that denies the taxpayer a refund is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of taxpayer's right to appeal this decision is enclosed with this decision.

DATED this ____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this ____ day of _____, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted] Receipt No. [Redacted]

[Redacted] [Redacted] [Redacted]

ADMINISTRATIVE ASSISTANT 1